

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD

US FOODS, INC.

Employer

and

Case 15-RC-076271

TEAMSTERS LOCAL 612, AFFILIATED
WITH INTERNATIONAL BROTHERHOOD
OF TEAMSTERS

Petitioner

ORDER

The Employer's Request for Review of the Regional Director's Decision and Direction of Election raises a substantial issue solely with respect to the exclusion of the van drivers from the petitioned-for unit. We conclude, however, that this issue may best be resolved through the use of the Board's challenge procedure. Accordingly, the Decision is amended to permit the van drivers to vote under challenge, and the Request for Review is denied in this and all other respects.¹

The Employer's "Motion for Reconsideration" or "Emergency Appeal" is granted. Accordingly, we direct the Regional Director to send a mail ballot to Ron Favor consistent with the election arrangements pertaining to mail ballots as set forth in the Regional Director's May 11, 2012 letter. In so doing, we emphasize that the ballots are to be counted on time and that the ballot cast by Mr. Favor is subject to the same challenges as any other ballot.²

BRIAN E. HAYES, MEMBER

RICHARD F. GRIFFIN, JR., MEMBER

SHARON BLOCK, MEMBER

Dated, Washington, D.C., May 23, 2012.

¹ Member Hayes finds that the interests of those employees in the petitioned-for unit are sufficiently distinct from excluded employees whom the Employer seeks to include. In finding the unit appropriate, he would not rely on the unit test of *Specialty Healthcare & Rehabilitation Center of Mobile*, 357 NLRB No. 83 (2011), for the reasons set forth in his dissent in that case.

² Member Hayes agrees with his colleagues' direction that the Regional Director should send a mail ballot to Ron Favor. In addition, at some future point, he believes the Board should reconsider its general policy of not providing mail ballots to employees who are unable to participate in a manual ballot election because they are in the military service.